



God Save the King.

An Address before the Empire Club of Canada, at Toronto,
December 13th, 1910.

BY

THE HONOURABLE MR. JUSTICE
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FOR ONTARIO.

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George the Fifth, by the Grace of God of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the seas, King, Defender of the Faith, Emperor of India.

The British Constitution, of which ours is a copy, has been of very gradual growth—it was not made in a day or a year and is not the production of one man or of one generation of men.

Like most, if not all, institutions which have come down from ancient times, it bears traces of the past, and much still remains of antiquity, though much may have disappeared in the course of evolution. But the course of evolution has been continuous, and there are things new as well as things old to be found in it. I am not sure that something of this evolution is not to be learned from the name of the Sovereign.

The Supreme Executive of the United Kingdom is vested in a single individual, the King. And in like manner, in the Dominion of Canada and in the province of Ontario, the King is the Supreme Executive and he is the Sovereign Lord.

It is my purpose to take up, in their order, the names and titles by which our King is officially known and to consider briefly what is meant by them, and whence they come.

The name "George" was not used by any British Sovereign until the Hanoverian dynasty came in with George I., the Elector of Hanover, who succeeded to the throne in 1714 on the death without issue of Queen Anne. "George" is itself of Greek origin and

means nothing more or less than "Farmer." The manner in which the name became a favorite in Hanover would require a long story to tell, which, interesting as it is, would lead us too far away from the present purpose.

His Majesty is said to be King "by the Grace of God." The kings in ancient Germany—from or through which land our ancestors came—were believed to be descended from the gods, just as we read of the belief of the ancient Greeks and Peruvians as to their kings, and the ruler of Japan is still considered to be descended from Heaven.

Even as I write, the following item appears in a daily paper:

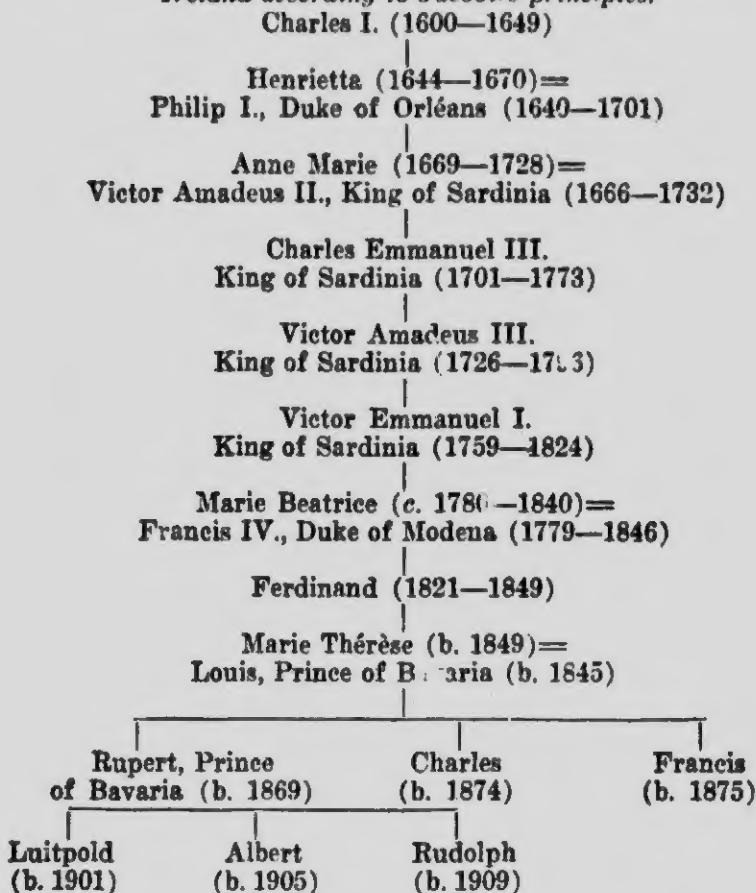
"The Rajahs of Bustar are hybrid Rajpoots, claiming to be of the family of the moon, and have reigned in Bustar for between five and six hundred years."

There can be no doubt that in all ages a sacred character has attached to the occupant of the throne—"such divinity doth hedge a king." This, in England at least, led to the idea that the touch of the Sovereign was effective in healing certain disorders—we are told that Dr. Samuel Johnson was as a child (in 1712) touched by Queen Anne, and it is certain that the practice of touching for the "king's evil," as it was called, continued till the end of her reign. The loyal Jacobites believed that the virtue existed only in the king who was such by divine right, and therefore the Hanoverian who was king only by the law made by man did not possess it; and that although the ancestors of the Hanoverian line were ruling monarchs when the Stewarts were but officers of the King of Scotland, and long before Walter the Stewart had won the hand of Margaret (or Marjory), the daughter of Robert the Bruce, and so became the progenitor of a line of kings. I am not aware of any verified instance of "touching" by George I. or his successors, although the office for

such a ceremony continued to be printed in the Prayer Book till 1719.

There have, ever since the flight of James II. in 1688, been many, and there are still some, who look upon that king and his descendants as the true monarchs of England. Some still on the anniversary of the execution of Charles I. decorate with flowers his statue at Trafalgar square; and some acknowledge only a Continental princess as their queen, Marie Thérèse, wife of Louis of Bavaria.* It is said that

*Table showing the succession to the crown of Great Britain and Ireland according to Jacobite principles.



some ultra Royalists show their contempt for the present Royal family by affixing their postage stamps upside down. This is carrying the thought that a King of England is King by the Grace of God to its legitimate conclusion—but, in fact, there is no title to the Crown, *jure divino*, by divine right, except in a broad sense. Every one may be considered to be what and where he is by the grace of God—Omnipotent Providence is over all, and nothing happens without the permission, *gratia*, of Heaven. When William of Germany, during the present year, raised a storm by asserting without qualification or limit his right divine, he had to still the tempest by saying all he meant was that in his position he was an instrument in the hand of God. In that broad sense, our King is King by the Grace of God—but in that sense only. The King of England is not above the law; he reigns by virtue of law, and that law may be changed at pleasure by Parliament, including, of course, the reigning Sovereign.

The Witan, or Great Council, in Saxon times asserted the right to elect a king; and if the government was not conducted by him for the benefit of the people, they asserted the right to depose him. There is at least one instance of the deposition of a King of England in Saxon times—Ethelred II., the Unready,

Among the modern Jacobite, or legitimist, societies perhaps the most important is the "Order of the White Rose," which has a branch in Canada and the United States. The order holds that sovereign authority is of divine sanction, and that the execution of Charles I. and the revolution of 1688 were national crimes; it exists to study the history of the Stuarts, to oppose all democratic tendencies, and in general to maintain the theory that kingship is independent of all parliamentary authority and popular approval. The order, which was instituted in 1886, was responsible for the Stuart exhibition of 1889, and has a newspaper, the *Royalist*. Among other societies with similar objects in view are the "Thames Valley Legitimist Club" and the "Legitimist Jacobite League of Great Britain and Ireland."—*Encyc. Brit.*, Ed. 11., Vol. 15, p. 120.

in 1013—and there were almost certainly two other instances at an earlier date of the deposition of Kings of Northumbria, three of the Kings of the West Saxons, and at least two of Wessex. There are very many instances of election of kings not in the hereditary succession, although, of course, preference would be given to the family of the dead King.

It was not, however, always the case that the King was chosen from the royal kindred, or even from the hereditary nobility. Harold, the last of the Saxon Kings, was the son of a parvenu, yet he was chosen by the Witan, King of England, because he was the wisest, the bravest and the best.

After the battle of Hastings (in 1066), which an old book calls a victory over the House of Harold and not over the nation collectively (I pass over the episode of the Danish Kings), the Conqueror William saw to it that his title was confirmed by the Great Council—and so with each of his successors when there was any conflict or fear of conflict. Even if we pay regard to the interlude (curious in many respects) of the reign of King Stephen, the throne descended in a hereditary and fairly regular line until the time of Richard II., the last of the Plantagenets. He, in 1399, signed a document absolving his subjects from their allegiance and renouncing every claim to the Crown. He did this much for the same reason that a traveller renounces his claim to his own purse when it is demanded by a band of robbers in overwhelming force. But times were changed from Ethelred's period: Parliament, which was the successor of the Witan, did not, as the Witan had done three centuries before, depose the monarch without at least his nominal consent; the document signed by Richard was read to Parliament and thereupon he was declared to be no longer king. Then came what was in fact the exercise of power given by military strength, but in form an assertion of hereditary right

by Henry of Lancaster. His plea was unanimously accepted, and he was led to the throne by the two archbishops.

There had been a somewhat, but not precisely, similar occurrence seventy-two years before, when Edward II. was forced to abdicate in favor of his son. Parliament had drawn up articles setting out his defects and crimes, and advanced these as good and sufficient reasons for his deposition. But this abdication was in favor of his own son and Heir Apparent, and therefore not quite the same as the eventful proceedings of 1399.

Then the Crown descended from father to son until the weak and unfortunate Henry VI. In his reign the Wars of the Roses were waged. On the victory of the York faction, the "White Rose," in 1459, Edward of York was not elected King as he had hoped; but Henry remained king with Edward declared by Parliament Protector, Prince of Wales and heir to the Crown. This arrangement did not please Margaret, the noble wife of Henry; and the war began again, and then came the election, in 1461, of Edward as king by a meeting of notables of the York faction, who called their meeting a Parliament. The fighting continued for some five years, when at length Henry was captured by his enemies. Even this did not break Margaret's spirit; but she kept up the struggle for her husband and her son. In 1470 she succeeded; Henry was released and reinstated as king, but almost immediately after the fatal fight at Tewkesbury he died by the hand of an assassin, the very day of Edward's triumphal entry into London.

The York dynasty did not last long. Henry of Richmond conquered Richard III. at Bosworth Field in 1485, and claimed the Crown both by hereditary right and by the judgment of God as shown on the field of battle. A Parliament was called by him

and a statute passed declaring that the inheritance of the Crown of England was in "our Sovereign Lord King Henry the Seventh, and in the heirs of his body." He shortly thereafter married Elizabeth of York, the eldest daughter of Edward IV., who was without doubt entitled to the throne if effect were to be given to the hereditary theory, and thereby, in the opinion of our old conservative writers, gained by much his best title to the Crown.

His son succeeded him—the man of many wives—and now there was trouble. About the middle of his reign, he claimed that his first marriage to Katharine of Arragon was no marriage at all, as she had been previously married to his brother Arthur, and in consequence his child Mary, who was Katharine's daughter, was not legitimate. He married Anne Boleyn, who bore him a daughter Elizabeth. After the birth of Elizabeth, but before the king had got tired of Anne Boleyn, an Act was passed entailing the Crown on the king and his sons, in default of sons to Lady Elizabeth and her children, and excluding Mary altogether. But Anne Boleyn fell out of favor, was accused and convicted of treason and was beheaded. The king married Jane Seymour; and a new Act was passed cutting out Elizabeth also. This statute shews the almost absolute power of Henry—there is a provision that if the king should leave no issue by Jane Seymour or any future wife, he might settle the Crown as he desired by letters patent or by will. But this was changed again after the birth of a son to Jane Seymour (this son became Edward VI.) and she had died, and after Henry, having got rid of two more queens, had married the sixth, Katharine Parr. There was then passed another Act of Parliament limiting the Crown to Edward and his issue, then to Mary and hers and then to Elizabeth and hers. This statute legitimized both Mary and Elizabeth.

Fixing the succession by will was not without pre-

cedent. Aethelwulf, the son of Egbert, had before his death in 858 made a will settling the succession. This will was confirmed in his lifetime by the Witan, and became effective with a modification, in which it would seem that all parties agreed.

There seems to be little if any doubt that Edward the Confessor devised the Crown by will to William of Normandy, subsequently called the Conqueror; but the Witan, which corresponded at that time to Parliament, did not give their approval. This will, therefore, has never been considered of any legal validity; and had William failed at Senlac, he would probably have died a traitor's death.

Henry did make a will under the powers given him by the former statute, by which he left the Crown to Edward, then to Mary, then to Elizabeth (and the heirs of their body respectively) then to the descendants of his youngest sister Mary, Duchess of Suffolk; but he did not include the descendants of his eldest sister Margaret, Queen of Scotland. This will, however was made under the authority of the Act of Parliament and would have had no validity in itself without the support of the statute.

When Edward VI. was about to die, he was induced to make a will leaving the Crown to Lady Jane Grey and her heirs. This will being without authority from Parliament was not effective; and Lady Jane Grey suffered death with her chief supporters for the treason by them committed in claiming the Crown for her under that illegal will. Mary succeeded and then Elizabeth under the will of their father.

After the death of Elizabeth (in 1603) the question was raised whether the will of Henry VIII. carried the throne to the grandson of the Duchess of Suffolk; but there was doubt as to the legitimacy of the claimant (if he can be so called), the son of the Earl of Hereford and Lady Katharine Grey, and he

had no army or powerful backers to help him, so he gave way to James VI. of Scotland, the great-grandson of Henry VII. James, who became James I. of England, had his title to the throne recognized by Parliament in the first Act of his reign. But his original title came from the statute passed one hundred and eighteen years before, whereby his ancestor Henry VII. and the heirs of his body were declared entitled to the Crown.

In the reign of Charles II., grandson of this James, an attempt was made to pass an Act excluding James, Duke of York, the King's brother, from the succession; but the attempt failed. No one had or has any doubt that had such an Act passed and been assented to by the King it would have been effective.

The Duke of York came to the throne under the name of James II.; and unhappy troubles occurred between him and his subjects which resulted in his son-in-law, William of Orange, being invited to come to England. He did so, and James fled. William at once summoned the peers and as many of the members of the last Parliament of Charles II. as were in town and some of the citizens, and, by their advice, he summoned the Lords, Spiritual and Temporal, and certain officers for a Convention. The Convention met—in everything but the fact that the summons was issued after the King had fled, the same as a Parliament. That Convention (13th February, 1689) declared that James had abdicated, and the throne was thereby vacant. It was resolved that William and his wife Mary "be and be declared to be King and Queen of England, France and Ireland, and the Dominions thereto belonging." This was with the term that the heirs of the body of Mary should succeed, failing them Anne and the heirs of her body, and failing them the heirs of the body of William. Mary, the wife of William of Orange, and Anne were of course daughters of James II.

In this proceeding we have another change. When Ethelred the Unready displeased his people, the Witan deposed him without asking or receiving his consent; when Richard II. was to be forced off the throne, the form was gone through of requiring him to sign a renunciation of his regal position. When James II., mindful of his father's fate, fled from England to save his life, the Convention called it an abdication. There can be no doubt that nothing was further from the mind of James than to abdicate his throne—and, indeed, the Convention left open for everybody to use his own judgment and as he wished to interpret "abdicate" as a voluntary or an involuntary retirement from the throne.

When, eleven years thereafter, William was dying and Mary was dead without issue, and Anne's many children had died—she had had seventeen altogether and the longest lived attained only twelve years of age—it became necessary to fix the succession anew. So in the year 1701 was passed the Act of Settlement, by which, in case of the death of Anne and William without issue, the Crown was settled on Sophia, wife of the Elector of Hanover, and her lawful heirs. The Electress Sophia was the daughter of Elizabeth, Electress Palatine, sister of Charles I., and consequently she was cousin to Anne's father, James II. She was not at all next in succession to Anne—Henrietta, Duchess of Orleans, Anne's aunt, daughter of Charles I., had left descendants, and Sophia had had many older brothers and sisters who had left children—but she was the nearest to the direct line who was a Protestant; and that, as Parliament considered, justified their choice. King James II. died about the same time, leaving his son, James Francis, claimant to the Crown in his stead. When Anne died in 1714, it might well have been that the Stewart cause would come uppermost; but, as it turned out, the Act of Succession was al-

When Sophia was dead; but her son, the Elector of Hanover, became, without opposition, king, as George I. The attempts in '15 and '45 of the son, James Francis, and grandson, Charles Edward, of James II. to wrest the Crown from George I. and his successor were unsuccessful. James Francis died in 1766, Charles Edward in 1788, and his brother Henry died in 1805—the last legitimate descendant of James II.

Our King George V. is a lineal descendant of King George I.—and thus we have traced the statutory Parliamentary nature of his title to the throne.

While there is no room in our law and constitution for the doctrine of divine right, it must not be supposed that our king does not descend from the kings of old. Through his ancestress Sophia, he descends from the first Stewart King of England; through him from Henry VII., the first Tudor and Elizabeth of York, his wife; through her from Edward III., the greatest of the Plantagenets; through him from Henry II., the first of them; through Henry II. from his grandfather, Henry I., and his wife, Matilda; through Henry I. from his father, the Conqueror; and through Matilda from Edmund Ironside and Alfred and Egbert, the first King of all England, and from Cerdic, who, in 495, led his Saxons into Hampshire, and twenty-four years later became the first King of the West Saxons. He was the founder of the greatest kingdom of the Heptarchy; and he is the progenitor of our Royal line.

And our King also traces his descent from Charlemagne. Charles the Bald, King of the West Franks, grandson of Charlemagne, and himself afterwards Emperor for a short time, had a daughter Judith, who married successively Aethelwulf and his son, Aethelbald, Kings of England; and she took for her third husband Baldwin, who became the first Count of Flanders. From Baldwin and Judith descended

Matilda, the wife of William the Conqueror and the mother of his children, the ancestress of every subsequent English monarch.

So far I have been speaking of England: but it is not of England that George V. is King; he is King of the United Kingdom of Great Britain and Ireland—the United Kingdom not Kingdoms.

Until the death of Elizabeth in 1603, the two countries, England and Scotland, had co-existed, and, speaking generally, as independent kingdoms, separate in language, law and manners. Even Wales had been separate from England until included by the "ruthless king," Edward I., about 1278; and had no right to send representatives to Parliament until the reign of Henry VIII., two hundred and sixty years thereafter.

Nor did England and Scotland cease to be separate kingdoms upon the accession of the Scottish king to the English throne—each kingdom had its own Parliament, Peerage and Privy Council, although they both had the same king. It was not until 1707 that the two kingdoms coalesced by the Act of Union, 6 Anne, c. 11; and the name of the new kingdom thus formed was "Great Britain."

And our King traces his descent from the ancient kings of Scotland also. We have seen that he is descended from James I. of England, who was also James VI. of Scotland. James was the son of Mary Queen of Scots, and the descendant of the earlier kings called James and of the Roberts, of whom the most glorious was Robert Bruce, and he is descended from Duncan I., whose ancestry goes back to the abyss of time.

So, too, our King is descended from the long line of princes or chiefs of Wales, through Henry VII., Henry Tudor, himself of Welsh descent and name.

Ireland was in great part subdued in the reigns of Henry II. and John. Parliaments were established

early in the fourteenth century for Ireland, quite distinct from the English Parliaments, and summoned by the King's Deputy. For long Ireland had its own House of Commons and House of Lords, but always the same king as England. In 1801, an Act was passed whereby the two kingdoms of Great Britain and Ireland became one, known as the United Kingdom of Great Britain and Ireland. This has continued ever since, although there have been many movements looking to a dissolution of this United Kingdom and the reinstatement on the old footing or on some analogous basis of the former kingdom of Ireland.

Such then is the United Kingdom of Great Britain and Ireland.

The British Dominions became British in many ways—by discovery, by conquest, by cession, etc. The Isle of Man was formerly a feudatory kingdom subject to Norway, then to England, then to Scotland, then to England again; now it is vested in the British Crown. The Channel Islands—Jersey, Guernsey, Sark, Alderney, etc.—were part of Normandy; and when William of Normandy became King of England, they were united to England. When Normandy was lost to the Kings of England, the Islands remained.

Where an unoccupied country—or what is the same thing in the eyes of civilized people, a country occupied by savages only—is discovered by the people of a civilized country and occupied by them, such country is considered thereafter to belong to the country of the discoverers and occupiers. In this way the Eastern States of what is now the United States became British, and so remained until the American Revolution. Some of the West Indian Islands remain so still. Newfoundland, too, and some parts of what is now Canada were claimed in the same way; but all doubt was set at rest by the con-

quest of Canada in 1759-1760. All Canada was ceded by France in 1763.

Australia is claimed by right of discovery and occupation; so is New Zealand and many of the isles of the sea; South Africa in part the same way, in part by cession, and in part by conquest; India by conquest and cession.

The British dominions beyond the seas are found in all parts of the globe, in all latitudes and longitudes, under the burning sun of the tropics and the chill blast of the Arctic regions; and their peoples are white and black and yellow and red, and speak English and Gaelic and Erse and French and German and Italian and Spanish and every known tongue, civilized or barbarous—the oldest of dialects based upon Sanskrit, and the newest vernacular. On the flag of Britain the sun never sets—her morning drum-beat circles the earth, and no one may keep far away from some sign of her power. Over all that territory and all these peoples is George V. King; and it is to the King that we owe allegiance—the King is the great unifier of the British.

Although the Sovereignty of the British Monarch over "the British Dominions beyond the Seas" has always been undoubted, this Sovereignty (curiously enough) was not recognized in his official title until the reign of Edward VII. That much-mourned king was in 1901 authorized by Statute, 1 Edw. VII., c. 15, to make such additions to the style and titles then appertaining to the Imperial Crown of the United Kingdom and its dependencies as he saw fit. Almost immediately (on the 4th November, 1901) the addition was made "and of the British Dominions beyond the Sea."

The King is a part of the Canadian Parliament and of the Ontario Legislature; and statutes passed by these bodies are as truly sovereign acts as though passed by the Imperial Parliament. Some talk has

been heard as to our relations with the United Kingdom. I cannot see any advantage to be gained by raising questions of no practical moment. It does seem to me, however, that no harm can be done by carefully keeping in mind the truth that we are not the subjects of the people of the United Kingdom, but the subjects of the King of whom they are also subjects. We bear to them not the relation of inferiors but of equals—we are not their bondsmen, but their brethren. We think the union of the United Kingdom and the Dominion of Canada under the same Monarch as indissoluble as the Union of Great Britain and Ireland—yes, as the Union of England and Scotland, or of England and Wales. Yet that should not blind our eyes to the fact that it is a union under the same Crown and not a subject race under a superior. The English immigrant who thought that Canadians deserved no credit for ministering to his wants because “don’t we jolly well own you?” was as deficient in constitutional knowledge as he was lacking in manners.

For centuries the Kings of England claimed to be Kings of France; and, though the last vestige of possessions in France disappeared in the reign of Queen Mary Tudor in 1558, the title of King of France was still used—it was abandoned only during the Hanover period. And so that fiction (which indeed produced friction with France) was got rid of.

When Luther was startling the whole Christian world with his bold theses on the Roman Catholic Church and her beliefs, Henry VIII. wrote (or had written for him) a defence of the doctrines attacked. This much pleased the Pope of the time, Leo X.; and he, by bull, bestowed upon Henry the title “Fidei Defensor” (Defender of the Faith), and commanded all Christians so to address him. Henry was then, or thought he was, a devout Catholic; but his views changed. Those who do not believe in him, say the

change was brought about by the beauty of Anne Boleyn. Whether this be so or not, the fact is that, desiring to marry Anne Boleyn, he wished to obtain a divorce from his wife, Katharine of Arragon. The Popes had long established their authority to grant divorces; and had granted several to reigning monarchs for public reasons. But the Pope declined to grant Henry his request. Whether for this reason or not, the king procured Acts of Parliament which separated the Church of England from the Church of Rome and made the king himself supreme head on earth under God of the Church of England. But though Henry separated himself from the spiritual dominion of the Pope, he continued to use the title given him for defence of the Pope's doctrines. And so have all his successors, Protestant as well as Catholic. I do not know that any more curious circumstance can be cited than this—and one scarcely knows how to characterize it—perhaps, as loyal subjects, the best thing we can do is to let it alone and say nothing about it.

It was but the other day (the first of January, 1877) that Queen Victoria was proclaimed "Empress of India." The title has little or no constitutional significance; it was, it is understood, assumed for its effect upon the Indian people, although some still have a suspicion that it was intended to show that the British Sovereign is not in any sense inferior to the Emperors of Germany, Austria or Russia. It is impossible with the time at my disposal to discuss its real bearing.

Her Majesty was authorized to make this addition to her Royal style and titles by an Act of Parliament passed in 1876 (39 Vic., c. 10).

What memories of heroic valor and equally heroic suffering are awakened by these words "Emperor of India"—memories of Timour and Aurangzeb, Mogul and Mahratta, Vasco de Gama, Clive and Warren

Hastings, Wellesley and Malcolm, Hardinge and Napier and Gough, Outram and Nicholson and Havelock and Colin Campbell—but memories also of the Black Hole of Calcutta, of the massacres of Patná and Cabul and Cawnpore. Upon this I cannot even touch. India, the most populous of all the British possessions, has the longest history, and that history will well repay perusal—I do not, however, dwell upon that gorgeous past.

I have now given a sermon on the text supplied by the titles of our Sovereign; and I trust I have shown that all these titles are full of interest for a British subject—a thousand times more might have been said, but this must suffice for this time.

And the man, himself, aside from his titles—what is he? For long descent and noble ancestry, exalted position and dignified function, do not necessarily make a man to be admired.

King George the Fifth was and is a good son; obedient without servility; a good husband devoted to a good and devoted wife; a good father to frank and sturdy children. In all the domestic relations without reproach, he is the idol of his own; friend and servant alike know what to expect from him—kindness, courtesy and consideration. Conscious of his own position, he never uses it to humiliate another; while never allowing undue familiarity to degrade it. A man among men, making no claim to the halo of the saint, he has not more but less than the usual failings of our common humanity. As a king, he has already shown what is to be expected of him. No monarch could know better than he the constitutional limitations of the Crown; and it is to be expected that he will faithfully observe them. But within the limits set for him he has been already able to cause a cessation, at least for the time, it may be for ever, of the bitterest political controversy the old land has seen for eighty years. The conference suggested-

indeed forced—by him, of the leaders of the parties may not be fruitful of a successful solution of the difficulties which now abound; but it has at least given time for all parties to think and exactly to determine their position.* And that is an enormous gain. In the meantime there is peace.

We pray that he may be ultimately successful in allaying all storms, and in destroying all causes for dissension and bitterness. He will if he can; and knowing the anxious care with which he is observing his Dominions and the honest efforts he is making for the peace and prosperity of the Mother Land, with which is bound up our own peace and prosperity, we Canadians all fervently join in the prayer,

God Save the King.

* This was written before the apparent failure of the conference and the summons for a new Parliament: but I do not withdraw what I have said.

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